GROUP AND INDIVIDUAL LONG-TERM CARE INSURANCE FILING CHECKLIST

806 KAR 17:081 – EFFECTIVE 2/8/93
(X-ref. KRS 304.14-600 to 625 – Effective 7/14/92 and SB217 – Effective 7/14/92.)
Checklist revised 11-20-08

( ) Complies with the Basic Insurance Policy Checklist and Individual or Group Health Insurance Contract Checklist

KRS 304.14-615

( ) 1. Provides coverage for skilled care only (Subsection 2)

( ) 2. Pre-existing condition limitation (Subsection 3)

( ) 3. Prohibits prior hospital stay requirement (Subsection 4)

( ) 4. Thirty day free look (Subsection 6)

Section 1 and 2 Definitions

( ) 1. Long-term care – must provide coverage for a minimum of 12 consecutive months (X-ref. KRS 304.14-600 (1))

( ) 2. Adult day care – care provided during the day for four or more individuals

( ) 3. Acute condition – medically unstable

( ) 4. Home health care services – medical and non-medical services in the home

( ) 5. Medicare – SHALL be defined

( ) 6. Mental or nervous disorder – cannot exclude Alzheimer's disease as a mental disorder

( ) 7. Personal care – needs assistance in daily living activities

( ) 8. **SHALL be defined**:

Skilled nursing care, intermediate care, personal care, home care
(define level of skill required, nature, type of care and setting)

( ) 9. Providers of service – SHALL be defined (Section 2(17))

Section 3 and 4 Policy Practices and Provisions and Required Disclosure Provisions (X-ref. KRS 304.14-615)

( ) 1. Renewability – SHALL appear on the first page of policy and be: (X-ref. KRS 304.14-615(2))
guaranteed renewable (rates, may be revised) or
noncancellable (rates may not be revised)

( ) 2. 30-day right to return policy (X-ref. KRS 304.14-615 (6))

( ) 3. Limitations and exclusions allowed: (806 KAR 17:081 Section 3)

a. Pre-existing condition - if used, the limitation SHALL appear as a separate paragraph labeled "Pre-existing Conditions Limitations" (Section 4 (4))
b. Mental or nervous disorders, except Alzheimer's
c. Alcoholism and drug addiction
d. Conditions resulting from war, riot, armed forces, suicides, etc.
e. Treatment in government facility, covered by Medicare, workers' compensation, etc. (except Medicaid) (Section 3 (2) (e))
f. Type of provider or territorial limitations
g. Does not have to pay if immediate family

( ) 4. Extension of benefits beyond termination of policy may be limited to: (806 KAR 17:081 Section 3 (3))

a. Duration of benefit period
b. Payment of maximum benefits
c. Subject to policy waiting period and other provisions of policy

( ) 5. Continuation and conversion (GROUP) (806 KAR 17:081 Section 3 (4))

Group policies SHALL comply with KRS 304.18-110 and KRS 304.18-120

( ) 6. Discontinuance and Replacement (GROUP) - Replacing insurers SHALL offer coverage to all persons covered under the previous policy

( ) 7. Premiums SHALL NOT increase due to:

a. Increasing age beyond age 65 (X-ref. KRS 304.14-615 (2) (a))
b. Length of time the insured has been covered

( ) 8. Electronic enrollment requirements (806 KAR 17:081 Section 3 (7))

( ) 9. Unintentional lapse (806 KAR 17:081 Section 4)

( ) 10. Reinstatement (806 KAR 17:081 Section 4(2))

( ) 11. Statement that premiums may change (Section 5(1)(d))

( ) 12. Riders and endorsements (Section 5 (2))

a. Except when requested by the insured, riders and endorsements which change benefits and premiums SHALL require signed acceptance by the insured (except when changes are required by law).
b. If additional premium is charged, premium SHALL be in the policy, rider or endorsement.

( ) 13. Payment of benefits

If the basis of payment of benefits is based on standards described as "usual and customary," etc., the terms must be defined and explained in the Outline of Coverage. (Section 5 (3))

( ) 14. Other limitations or conditions on eligibility for benefits

If used, SHALL be labeled as such and give description of limitation or conditions, including number of days of confinement (Section 5(5))

( ) 15. Disclosure of tax consequences (Section 5(6))

( ) 16. Benefit triggers (Section 5(7))

( ) 17. Tax qualified statement (Section 5(8) and (9))

Section 6 Rating disclosure requirements (806 KAR 17:081)

( ) 1. Effective dates (Section 1(1) and (2))

( ) 2. Disclosure of rating practices (Section 6(3))

( ) 3. Notification of rate increases (Section 6(8))

( ) 4. Disclosure of renewal provision (Section 5(1))

Section 7 Initial filing requirements

( ) Included actuarial information for actuaries to review

Section 8 Prohibition against post claims underwriting

( ) 1. Policy shall include: "Caution: Policy based on answers on application, etc." – 806 KAR 17:081 Section 8(3)
( ) 2. Application SHALL contain questions to ascertain the health condition (does not apply to guarantee issue polices)
( ) 3. If application asks whether the applicant had medication prescribed, it must contain a place for listing the medication. If the insurer should have known at the time of the application that medication listed directly relates to a medical condition, the policy or certificate shall not be rescinded for that condition.
( ) 4. A copy of the application shall be delivered at the time of delivery of the policy.

Section 9 Minimum standards for home health and community care coverage in long-term care policies

( ) 1. Shall not limit or exclude benefits by:
a. Requiring insured to need care in a skilled nursing facility if home health care was not provided
b. Requiring prior nursing or therapeutic services
c. Limiting eligible services to services provided by RN or LPN
d. Requiring nurses or therapists to provide services that could be provided by home health aides or other home care worker
e. Excluding coverage for personal care services provided by a home health aides

f. Requiring level of certifications greater than eligible service
g. Requiring acute condition
h. Limiting benefits to services provided by Medicare certified agencies
i. Excluding coverage for adult day care

( ) 2. Home health or community care, if provided, SHALL be equivalent to at least 1/2 of coverage available for nursing home benefits (does not apply to residents of continuing care retirement communities).

( ) 3. Home health care benefits may be counted toward maximum length of coverage

Section 10 Inflation protection

( ) 1. When a long-term care policy is offered, the applicant SHALL also be offered a policy with an inflation protection feature, (Refer to Section 10 (1) for specifics) no less favorable than:

a. Increases benefit levels annually at a rate no less than 5 percent
b. Guarantees the individual the right to increase benefit levels without evidence of insurability
c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit

( ) 2. Inflation protection policy must be offered to the GROUP policyholder

( ) 3. Not required for life

( ) 4. Graphic comparison chart – cross-referenced to outline of coverage (attachment 3)

Section 11 Requirements for applications and replacement coverage

( ) 1. Applications SHALL include the questions in Section 11 (1) and (2).

( ) 2. Copy of replacement form in Section 11 must be furnished to the applicant prior to issuance of the policy and a copy retained by the insurer. (Section 11(3) or (4))

( ) 3. Replacing insurer shall notify the existing insurer. (Section 11(5))

Section 12 Reporting requirements

Section 13 Agent licensing

Section 14 Reserve standards

Section 15 Loss ratio

Section 16 Premium rate schedule increases

( ) Notice requirements (Section 16(2))

Section 17 Filing requirements KRS 304.14-610

( ) Policies/certificates must have approval by a state having statutory or regulatory long-term care requirements similar to those adopted in this state. (Out-of-state group certificates must be filed and approved.)

Section 18 Advertising

( ) A copy of advertising must be “Filed Only” in Kentucky prior to use. (Advertising must be retained by the insurer for at least 3 years.)

( ) Lead cards must state that contact will be made by an agent or insurance company.

Section 19 Standards for marketing

Section 20 Suitability

Section 21 Prohibition against pre-existing conditions and probationary periods in replacement policies/certificates (X-ref. KRS 304.14-615(3) (a thru d))

( ) Replacing insurer SHALL waive pre-existing and probationary periods if they have been satisfied under the original policy.

Section 22 Nonforfeiture benefit

( ) Offering nonforfeiture benefit

( ) Contingent benefit upon lapse (Section 22(4)(c))

Section 23 Standards for benefit triggers

( ) Eligibility Subsections (1) and (2)

( ) Activities of daily living (ADLs) Subsection (3)

( ) Determination of deficiency Subsection (5)

( ) Assessment of ADLs Subsection (6)

( ) Appeals Subsection (7)

Section 24 Additional standards for benefit triggers for qualified LTC contracts

( ) Tax qualified LTC contract requirements Subsections (1) through (4)

( ) Appeals Subsection (5)

Section 25 Outline of coverage

( ) Shall be delivered at the time of solicitation (x-ref. KRS 304.14-615(7)

( ) Must include explanation of terms "usual and customary," etc., if terms are used in the policy Section 5(3)

( ) Must include:

a. A graphic comparison of benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits (must show benefit levels over at least a 20-year period)

b. Expected premium increase based on attained age

( ) "Notice to Buyer" - ("policy may not cover all costs," etc.,) on the first page of the outline of coverage (Section 19(1)(b))

( ) Standard format

( ) 1. Free standing, with no smaller than 10 point type

( ) 2. Contains no material of an advertising nature

( ) 3. May emphasize by any means which provide prominence to the text

( ) 4. Text and sequence of text is mandatory

( ) 5. Standard format as outlined in Section 25(5)

a. Description of policy
b. Purpose of outline of coverage
c. When the policy/certificate may be returned and premium refunded (example: free look, death) (X-ref. KRS 304.14-615(7)(b))
d. This is not Medicare supplement coverage
e. Description of principal benefits and coverage
f. Benefits provided by the policy
g. 1. Limitations and exclusions
2. Statement that the policy may not cover all expenses
h. Relationship of cost of care and benefits
i. Terms under which policy may be continued in force or discontinued
1. Renewability
2. Group continuation or conversion provision
3. Describe waiver of premiums provisions or state there are no such provisions
4. Company right to change premium and why
j. State coverage for Alzheimer's and other organic brain disorders
k. Total annual premium and indicate portion of annual premium which corresponds to each benefit option
l. Indicate if medical underwriting is used and describe other important features

Section 26 Requirements to deliver shopper's guide

1. Agent SHALL deliver the guide prior to presentation of application (X- ref KRS 304.615(7) (2))
2. Direct response solicitation- the Guide shall be presented with the application (X-ref. KRS 304.14-615(7)(3))
3. Life: not required (a policy summary is required)

Section 27 Penalties

Section 28 Permitted compensation arrangements

1. The first year commission cannot be more than 200 percent of the second year commission.
2. Commission for the subsequent (renewal) years must be the same in the second year and must be approved for a reasonable number of renewal years.
3. No compensation on renewal policies greater than the renewal compensation payable by the replacing insurer shall be provided by the insurer nor received by the agents.

Section 30 Materials incorporated by reference

KRS 304.14-370 & 417-050 Binding arbitration cannot be required, although it can be an option.

KRS 304.12-080, KRS 304.12-215 Discrimination

KRS 304.12-090, KRS 304.12-110 Rebates and illegal inducements

KRS 304.12-190 Illegal dealing in premiums

KRS 304.12-230 Unfair claims settlement practices

Applies to individual policies

KRS 304.17-030(1) Consideration

KRS 304.17-030(2) Date and duration

KRS 304.17-030(4) Undue prominence to any portion of text

KRS 304.17-030(5) Exceptions and reductions

KRS 304.17-030(6) Form number

KRS 304.17-050 Entire contract

KRS 304.17-060 Incontestability

KRS 304.17-070 Grace period

KRS 304.17-080 Reinstatement

KRS 304.17-090 Notice of claim

KRS 304.17-100 Claim form

KRS 304.17-110 Proof of loss

KRS 304.17-120 & KRS 304.12-235 Timely payment of claims

KRS 304.17-150 Legal Actions

KRS 304.14-617 Requires any long-term care policy issued on or after June 21, 2001, which provides coverage for assisted living benefits, to cover in any assisted living community which meets the criteria of KRS 194A.700 to 194.729 and any administrative regulation promulgated under KRS 194A.700 to 194A.729.

Assisted Living requirements
KRS 194A.700 definitions

194A.700(3) Assisted living community that contains a series of living units on the same site, certified under KRS 304.707 to provide services to five or more adult persons not related with the third degree of consanguinity to the owner or manager.
194A.700(2) Definition of assistance with self-administration of prescription drugs
194A.705 Services for assisted living requirements
194A.717 Staffing requirements
194A.719 Staffing education requirements

Health-related services not offered in these facilities

Requires any long-term care policy, issued after June 21, 2001, which provides benefits for adult day care services, to not contain any requirements that are more restrictive than what is required for certification. See KRS205.950 or 216B.0443 and regulations promulgated under KRS 194A.700 to 194A.729.

Adult day care requirements

KRS 205.010(15) adult day care centers provide care for four or more individuals not related to operator on a part-time basis, day or night, but less than 24 hours.
KRS 205.010 definitions

905 KAR 8:160 Section 5(2)(b) The adult day care center must operate a minimum of four hours per day, three days a week, excluding holidays and emergency closings.

910 KAR 1:230
Section 4 facility requirements
Section 5 staffing requirements

Health-related services are not required in a certified adult day care facility.

806 KAR 17:010 Refund of premium at death

KRS 304.14-622 Refund of unearned premium due to cancellation